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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,851	03/15/2001	David P. Veilleux	10261US01	5248

7590 12/23/2003  
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EXAMINER

VIG, NARESH

ART UNIT PAPER NUMBER

3629

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/808,851	VEILLEUX ET AL.	
	Examiner	Art Unit	
	Naresh Vig	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 26 September 2003.

2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-74 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-74 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.

13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
     a) ☐ The translation of the foreign language provisional application has been received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 14.

4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

This is in reference to response received on 26 September 2003 to the office action mailed on 28 May 2003. There are 50 claims, claims 1 – 50 pending for examination.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1 – 50 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 4, 7 – 9, 16 – 19, 22 – 27, 35 – 39 and 42 – 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz US Patent 6,075,888 in view of Holub US Patent 6,157,735.

Regarding claims 1, 16 and 36, Schwartz discloses system and method that allows a user to tune a designated a color profile for a specific color input or output device thereby creating a device specific profile from a profile for a similar device or from a generic device profile [abstract, col. 1, lines 7 – 13]. Schwartz discloses:

receiving color images from source clients [Fig. 1, input].

communicating the color images to destination clients [Fig. 1, output].

modifying the color images based on the colorimetric responses of display devices associated with the source clients [Fig. 2, tune output].

Schwartz does not discloses computer network. However, Holub discloses system and method for controlling color reproduction of input color image data representing one or more pages or page constituents in a network having nodes (or sites). Holub discloses means for providing color calibration data at each node characterizing output colors (colorants) of the rendering device of the node, and means for producing at each node, responsive to the color calibration data of the rendering device of the node, information for transforming the input color image data into output color image data at the rendering device of the node [abstract]. Therefore it would have been obvious to one of ordinary skill in the art to modify Schwartz as taught by Holub to

provide the access to automate the acceptance and presentation of the material by utilizing computer network as taught by Holub.

Regarding claims 2, 17 and 37, The method of claim 1, further comprising modifying the color images based on the colorimetric responses of display devices associated with the destination clients [col. 2, lines 28 – 42].

Regarding claims 3, 18 and 38, Schwartz discloses modifying the color images at a server [Fig. 1, computer]. Schwartz does not disclose network server to include a web server, and the images are accessible via a web site served by the web server. Holub discloses server and access via web (internet). Therefore it would have been obvious to one of ordinary skill in the art to modify Schwartz as taught by Holub to provide access to users over a widely used public network like internet.

Regarding claims 4, 19 and 39, Schwartz discloses modifying the color images at a network server before communication of the color images to the destination clients [Fig. 1].

Regarding claims 7, 22 – 24 and 42 – 44 Schwartz discloses characterizing the colorimetric responses of the display devices by delivering a series of web pages (tuning function) to the client that guide the clients through a color profiling process [col. 3, lines 28 – 42].

Regarding claims 8, 25, Schwartz discloses:

guiding the clients through the color profiling process by delivering a series of web pages to the clients [col. 3, lines 28 – 32, tuning process];

generating information representing the results of the color profiling process [col. 3, lines 28 – 32]; and

using color profiles for use in the modification of the color images [Fig. 1].

Schwartz does not disclose cookies to store user specific information. However, official notice is taken that it is known at the time of invention to a person with ordinary skill in the art that cookies are used in the internet commerce to store user specific information. Therefore it would have been obvious to one of ordinary skill in the art to modify use cookies to store user specific information on user's system.

Regarding claims 9, 26 – 27 and 45, Schwartz discloses server modifies the color images based on the contents of the profile (web cookie) [Fig. 1].

Regarding claim 35, Schwartz discloses storing information on physical data storage media. Schwartz does not disclose signals transmitted between the client and other resources on the computer network. However, Holub discloses signals transmitted between the client and other resources on the computer network (internet). Therefore it would have been obvious to one of ordinary skill in the art to modify Schwartz as taught by Holub to provide access to users over a widely used public network like internet.

Claims 5 – 6, 10 – 15, 20 – 21, 28 – 34, 40 – 41 and 46 – 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz US Patent 6,075,888 in view of Holub US Patent 6,157,735 further in view on eBay, Inc.

Regarding claims 5, 20, 40, 53, 61 and 70, Schwartz in view of Holub does not disclose source clients to include auction sellers, the images represent auction items, and the destination clients include auction buyers. However, eBay discloses commerce over internet for information presentation and management in an online trading environment like auction. eBay discloses input of product information from sellers and presentation of pictures to the potential bidders. Therefore it would have been obvious to one of ordinary skill in the art to modify Schwartz in view of Holub as taught by eBay to provide the system and method for online trading like auction.

Regarding claims 6, 21, 41, 54, 62 and 71, Schwartz in view Holub does not disclose the source clients include photographers, and the images represent photographs taken by the photographers. eBay discloses to accept pictures from sellers (photographers) for the item (images representing the item). Therefore it would have been obvious to one of ordinary skill in the art to modify Schwartz in view of Holub as taught by eBay to allow the sellers to provide images of the product they want to auction.

Regarding claims 10, 28 and 46, Schwartz discloses to receive images. Schwartz does not disclose to receive images over the web. However, eBay discloses to receive images from the user over the web. Therefore it would have been obvious to one of ordinary skill in the art to modify Schwartz in view of Holub as taught by eBay to provide access to user over a widely used public network like world wide web (aka web).

Regarding claims 11 – 13, 29 – 30, 32 – 33, 47 – 49, 57 – 58 and 65 – 67, Schwartz in view of Holub does not disclose calculating a fee for each modified image (fee for providing service). However, eBay discloses calculating fee for providing service. Therefore it would have been obvious to one of ordinary skill in the art to modify



Schwartz in view of Holub as taught by eBay to generate revenue to keep the system operational.

Schwartz does not disclose

permitting the source clients to specify whether the color images are to be modified. However, official notice is taken that it would have been obvious at the time of invention to one of ordinary skill in the art that Schwartz user will use the system only when the user wants modify the image.

permitting the destination clients to specify whether the color images are to be modified. However, official notice is taken that it would have been obvious at the time of invention to one of ordinary skill in the art that Schwartz user will use the system only when the user wants modify the image.

Regarding claim 14 – 15, 31, 34, 49 – 50 and 74, Schwartz in view of Holub does not disclose source clients are auction sellers, the images represent auction items, and the destination clients are auction buyers, the method further comprising calculating a fee for each modified image (charging fees for services provided), and charging the fee to one or both of the source and destination clients involved in an auction sale.

However, eBay discloses source clients are auction sellers, the images represent auction items, and the destination clients are auction buyers, the method further comprising calculating a fee for service provided, and charging the fee to source clients involved in an auction sale. Therefore it would have been obvious to one of ordinary skill

in the art to modify Schwartz in view of Holub as taught by eBay to generate revenues to keep the system operational.

Regarding claims 51, 59 and 68, Schwartz discloses:

receiving color images from source clients [Fig. 1, input].

communicating the color images to destination clients [Fig. 1, output].

modifying the color images based on the colorimetric responses of display devices associated with the source clients [Fig. 2, tune output].

characterizing the colorimetric responses of display devices associated with the source clients and the destination clients by delivering a series of web pages (tuning output) that guide the source and destination clients through a color profiling process [Fig. 2, tune output].

modifying the color images based on the colorimetric responses of the display devices associated with the source clients and the destination clients [abstract].

Schwartz does not disclose computer network. However, Holub discloses system and method for controlling color reproduction of input color image data representing one or more pages or page constituents in a network having nodes (or sites). Holub discloses means for providing color calibration data at each node characterizing output colors (colorants) of the rendering device of the node, and means for producing at each node, responsive to the color calibration data of the rendering device of the node, information for transforming the input color image data into output

color image data at the rendering device of the node [abstract]. Therefore it would have been obvious to one of ordinary skill in the art to modify Schwartz as taught by Holub to provide the access to automate the acceptance and presentation of the material by utilizing computer network as taught by Holub.

Schwartz in view of Holub does not disclose:

storing the color images at a network server that includes a web server, wherein the stored images are accessible via a web site maintained by the web server.

However, eBay discloses storing color images at server which are accessible by web users. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Schwartz in view of Holub as taught by eBay to make the system more efficient by minimizing the downloading the images from source and present it to the requesting user every time a user wants to view an image.

Regarding claims 52, 60 and 69, Schwartz discloses modifying the color images at the server before communication of the color images to the destination clients [Fig. 1].

Regarding claims 55, 63 – 64 and 72, Schwartz discloses:

guiding the clients through the color profiling process by delivering a series of web pages to the clients [col. 3, lines 28 – 32, tuning process], generating information representing the results of the color profiling process [col. 3, lines 28 – 32]; and using color profiles for use in the modification of the color images [Fig. 1].

Schwartz in view of Holub does not disclose cookies to store user specific information. Official notice is taken that it is known at the time of invention to a person with ordinary skill in the art that cookies are used in the internet commerce to store user specific information. Therefore it would have been obvious to one of ordinary skill in the art to modify use cookies to store user specific information on user's system.

Regarding claims 56 and 73, Schwartz in view of Holub does not disclose color images form parts of web pages received by the destination clients tom the web server. However, eBay discloses color images form parts of web pages. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Schwartz in view of Holub as taught by eBay to design a dynamic web page to display images and associated text.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

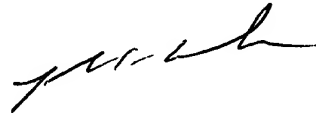
1. Hoekstra et al. US Patent 6,304,277
2. Suzuki et al. US Patent 6,360,008
3. Hess et al. US Patent 6,058,417
4. Brett US Patent 6,016,167

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is 703.305.3372. The examiner can normally be reached on M-F 7:30 - 5:00 (Alt Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703.308.2702. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.305.3900.

Naresh Vig  
December 15, 2003

  
JOHN G. WEISS  
SUPERVISORY PATENT EXAMINER  
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